theory that since no one was ever entitled to enforce the sale, there was never any conversion into personalty. See *Davenport* v. *Coltman*, 12 Sim. 610. The case would seem somewhat clearer if it were held that a conversion does not take place until the contingency upon which the sale is to be made has occurred. See *Paisley* v. *Holzshu*, 83 Md. 325. But see *Clarke* v. *Franklin*, 4 Kay & J. 257. Such a view would make applicable the rule, that there can be no conversion where all the purposes for which the conversion was directed have failed before the time when the conversion would otherwise occur. *Read* v. *Williams*, 125 N. Y. 560; *Smith* v. *Claxton*, 4 Madd. 484.

EQUITABLE CONVERSION — WHETHER SURPLUS PROCEEDS OF SALE OF LAND BY COURT DESCENDS AS REALTY OR PERSONALTY. — On A's death B became entitled to certain land. This land was subsequently sold by order of the court for the payment of the costs of settling the estate. After the sale B died intestate. *Held*, that the surplus resulting from the sale descends as personalty. *Burgess* v. *Booth*, [1908] 2 Ch. 648.

This decision reverses that of the lower court, criticized in 21 HARV. L. REV. 630.

ESTOPPEL — ESTOPPEL IN PAIS — FUTURE CONDUCT AS BASIS OF ESTOPPEL. — A sold land to B, taking a mortgage in part payment. B agreed to improve the land and to resell to A, who stipulated in the agreement that his mortgage should be subordinated to any mortgage which B might place on the premises to secure the payment of contemplated building loans. C, to whom B showed the agreement, made loans to B, and took a mortgage on the premises. Subsequently B released A from his subordination agreement. *Held*, that A, in seeking to foreclose his mortgage, is estopped to set up its priority. *Loudner* v. *Perlman*, 40 N. Y. L. J. 1439 (Dec., 1908).

In England a representation as to future conduct cannot form the basis of an estoppel. See *Jorden* v. *Money*, 5 H. L. C. 185, 214. In this country the tendency of the courts, expressed mainly in dicta, is to make an exception in cases where the representation relates to the intended abandonment of an existing right, if the representation is made to influence others and is in fact acted upon. *Insurance Co.* v. *Mowry*, 96 U. S. 544. In such cases equity should not aid the promisor in evading his undertaking. *Faxon* v. *Faxon*, 28 Mich. 159. But the decision here may be supported on another ground. In New York an agreement made for the benefit of creditors of the promisee gives them a vested right against the promisor when they show their consent by word or act. *Gifford* v. *Corrigan*, 117 N. Y. 257. In the case considered the legal remedy of C, the creditor, is distinctly inadequate, and equity, therefore, should grant him specific performance. *Hermann* v. *Hodges*, L. R. 16 Eq. 18. Then C's right to specific performance of A's agreement to subordinate his mortgage gives C an equitable defense in a foreclosure by A. *Randall* v. *White*, 84 Ind. 509.

EXECUTORS AND ADMINISTRATORS — ADMINISTRATION BONDS — SURETY'S LIABILITY. — B, the executrix of X, found among the assets of the estate shares of stock which in good faith she inventoried. She sold them and applied the money to the purposes of the estate. It subsequently appeared that the stock had been paid for by X with forged bonds. A, a judgment creditor of X, sued B and her surety on their bond. *Held*, that since the executrix appropriated the money as part of the estate, the surety is liable on his bond. *Wiseman* v. *Swain*, 114 S. W. 145 (Tex., Ct. App.).

The surety on an executor's bond obligates himself only for the principal's faithful administration of the assets. *Campbell* v. *Sacray*, 19 Ky. L. Rep. 1912. Assets are such things as the executor may properly appropriate to paying debts and legacies. *Given's Case*, 34 N. J. Eq. 191. By the weight of authority trust funds coming into the hands of an executor are not assets of the estate, even though treated as such by the executor. *People* v. *Petrie*, 191 Ill. 497.